BEFORE THE WAITANGI TRIBUNAL **WAI 3325**
WAI 3395

IN THE MATTER OF	the Treaty of Waitangi Act 1975
AND	
IN THE MATTER OF	the Climate Change Priority Inquiry (Wai 3325)
AND **IN THE MATTER OF**	a claim by **Donna Kerridge, Pita Tipene, Moana Maniapoto, Dr George Laking, India Logan-Riley, Professor Maria Bargh,** and **Aroha Te Pareake Mead** for and on behalf of **Ngā Toki Whakarururanga (WAI 3395)**

SYNOPSIS OF THE SPECIFIC CLOSING SUBMISSIONS
Dated at Rotorua, on this 2nd day of October 2026

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TĒNĀ E TE TARAIPIUNARA

1. This is the synopsis of the specific closing submissions filed for and on behalf of Wai 3395, a claim by Donna Kerridge, Pita Tipene, Moana Maniapoto, Dr George Laking, India Logan-Riley, Professor Maria Bargh, and Aroha Te Pareake Mead for and on behalf of Ngā Toki Whakarururanga. They primary relate to the international trade, investment and climate dimensions of the Climate Change Priority Inquiry.

2. The Claimants' central submission is that the Crown cannot meet its obligations under Te Tiriti o Waitangi in responding to the climate emergency through domestic action alone. The domestic and international spheres are inextricably connected. International climate, trade and investment agreements constrain and shape the policies available domestically and have direct consequences for Māori, te Taiao, and the exercise of tino rangatiratanga, mana motuhake and kaitiakitanga.

3. The submissions focus on three interrelated causes of action:

    a) the Crown's denial of tino rangatiratanga and mana Māori through its assertion of exclusive authority over international treaty-making;

    b) the perpetuation through international trade and investment agreements of Western capitalist and extractive economic models that contribute to the climate crisis and marginalise tikanga, mātauranga Māori and Indigenous solutions; and

    c) the conferral of enforceable rights on foreign investors through investor-state dispute settlement ("ISDS"), which creates risks for Tiriti-compliant climate action.

Tino Rangatiratanga, Kāwanatanga and international treaty-making

4. Te Tiriti does not cease to apply when Aotearoa New Zealand acts internationally. The Claimants submit that Māori did not cede mana motuhake or tino rangatiratanga, including the power to treat with other polities.

Kāwanatanga cannot therefore provide the Crown with the unfettered or exclusive authority it claims to determine Aotearoa New Zealand's international position.

5. The Crown nevertheless purports to exercise international treaty-making as an Executive prerogative. Mandates are determined by Cabinet, negotiations occur largely in secret, and the Crown retains ultimate control over Māori participation, access to information and influence over outcomes.

6. The Crown's insistence that Aotearoa New Zealand must speak internationally with "one voice" does not answer the Tiriti issue. The Claimants accept that the State is to speak with one voice internationally; the issue is how that voice is determined. A Tiriti-consistent "one voice" must reflect the relationship between rangatiratanga and kāwanatanga, and cannot be the Crown's voice alone.

7. The Claimants submit that the Crown's existing mechanisms for Māori engagement do not remedy that fundamental problem. The 2001 Strategy for Engagement with Māori on International Treaties is totally Crown-controlled and remains in place despite repeated calls for review, while subsequent reviews of international treaty-making have avoided the underlying constitutional question and failed to provide even a bare minimum of engagement and accountability.

8. Accordingly, the Claimants seek findings that the Crown's assertion and exercise of exclusive Executive authority in international affairs breaches Te Tiriti, and that international action concerning the climate emergency must be exercised consistently with rangatiratanga and kāwanatanga.

Conflicting worldviews and the trade-climate nexus

9. The second strand of the submissions concerns the substantive model embedded within international trade and investment agreements.

10. The Claimants submit that the Western capitalist economic model underpinning free trade and investment agreements is founded on, and perpetuates, colonial extractivism. That model has contributed materially to the climate emergency

and conflicts with the relational worldview reflected in tikanga, mātauranga Māori and kaitiakitanga.

11. The same paradigm increasingly presents market-based, financialised and technological responses as solutions to climate change. The submissions address carbon markets and offsets, biodiversity markets, fossil fuel and agricultural emissions, critical minerals and other forms of "green extractivism".

12. The Claimants say those approaches allow existing patterns of production, consumption and extraction to continue rather than addressing their underlying causes. References to Māori and Indigenous knowledge within trade agreements do not resolve that contradiction where the underlying economic model remains unchanged.

13. The submissions examine that tension through a series of contemporary agreements and initiatives, including the Agreement on Climate Change, Trade and Sustainability, the United Kingdom and European Union FTAs, the Indo-Pacific Economic Framework and critical minerals initiatives.

14. The critical minerals case study illustrates the intersection between domestic and international policy. The Claimants say that domestic mineral strategies that aim to expand extraction flow directly into international initiatives directed towards securing critical mineral supply chains, while Māori engagement remains fragmented between agencies and ultimately controlled by the Crown.

15. The Claimants submit that genuine redress requires an alternative approach. Tikanga, mātauranga, kaitiakitanga, Te Tiriti and UNDRIP provide a foundation for a tika transition and for different forms of international economic relationships.

Investor-State Dispute Settlement

16. The third strand concerns ISDS. ISDS gives foreign investors enforceable rights under international law that Māori do not enjoy in relation to Te Tiriti. The Claimants submit that this fundamentally distorts the Crown's priorities and creates legal and regulatory risks for Tiriti-compliant climate action.

17. The Crown's position that contemporary agreements contain sufficient safeguards, exceptions and policy space is challenged by both international experience and the findings of the Wai 2522 Tribunal.

18. The Crown's own post-2017 "no ISDS" policy confirms that ISDS poses unacceptable risks to sovereignty, transparency and preservation of regulatory space, including for environmental and climate measures. Yet Aotearoa New Zealand remains exposed to ISDS under existing agreements.

19. That exposure creates a risk of regulatory chill. The risk is not confined to the State ultimately losing an ISDS claim. The prospect of litigation, investor objections and pressure from foreign corporations or States may influence policy and legislative processes before measures are adopted.

20. The submissions rely on the Wai 2522 Tribunal's findings concerning the potential chilling effect of international investment protections and on the evidence of former Climate Change Minister James Shaw concerning the constraints such provisions may place on environmental regulation and the Crown's ability to fulfil its Tiriti obligations in the climate context.

Findings and recommendations

21. The Claimants ultimately seek findings that the Crown's conduct in the international trade and investment sphere has failed to give effect to the relationship between rangatiratanga and kāwanatanga and has contributed to or constrained effective responses to the climate emergency.

22. In relation to international treaty-making, the Claimants seek recommendations directed towards ending the Crown's claim to exclusive Executive authority and developing with Māori a Tiriti-consistent mechanism for the exercise of authority internationally. Pending that wider transformation, they seek joint reform of treaty-making processes, including co-design of mandates, meaningful Māori participation in delegations, information sharing, adequate resourcing, parliamentary accountability and effective Tiriti protections.

23. In relation to the trade-climate nexus, the Claimants seek development with Māori of an alternative model for international trade and investment relationships grounded in tikanga, mātauranga and kaitiakitanga and capable of advancing a tika transition. They seek review of existing agreements, an end to new agreements that perpetuate extractivism and false climate solutions, and an end to critical minerals negotiations that would cause further harm to Papatūānuku and Tangaroa.

24. In relation to ISDS, the Claimants seek recommendations that the Crown:

    a) immediately terminate the bilateral investment treaties with China and Hong Kong;

    b) proactively pursue the removal of ISDS from existing trade and investment agreements;

    c) legislate to prevent future governments adopting or maintaining ISDS;

    d) work with Māori to develop alternatives that give primacy to Te Tiriti and UNDRIP, protect climate action and ensure investor responsibility; and

    e) revise the existing ISDS Protocol with Ngā Toki Whakarururanga to provide for genuine Tiriti-based joint decision-making.

Conclusion

25. The climate emergency presents an existential challenge to Māori, te Taiao and future generations. The Claimants submit that responding to that emergency requires more than modification of the existing system. The Crown cannot provide Tiriti-compliant redress while maintaining international arrangements that reproduce the causes of the crisis, marginalise Māori authority and solutions, or constrain future climate action.

26. A tika transition requires restoration of the balance between rangatiratanga and kāwanatanga, recognition of tikanga and mātauranga Māori, and structural change to the way Aotearoa New Zealand develops and conducts its international trade, investment and climate relationships.

27. The Claimants accordingly ask the Tribunal to make findings and recommendations capable not merely of mitigating prejudice within the existing system, but of supporting the transformation necessary to ensure that Aotearoa New Zealand's domestic and international response to the climate emergency gives effect to Te Tiriti o Waitangi

DATED at Rotorua this 2nd day of October 2026

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