

Te kēhi Whakatau Tohenga Wawaonga Whenua-Haumi a Aotearoa (ISDS):



He Tikanga ¹

He tikanga tonu ina tūpono mai he kēhi ISDS, ki te whakawhirinakitia tētahi whakawāteatanga i raro i Te Tiriti o Waitangi

The New Zealand Ministry of Foreign Affairs and Trade, Manatū Aorere:

Te hoki mahara ki te hiranga o Te Tiriti o Waitangi ki Aotearoa hei tuinga taketake whai hiranga turepapa;

Te whakamana ake kia noho Te Tiriti hei anga mā ngā takohanga Karauna ki te Māori hei hoa Tiriti, tae atu ki te mana kaitiakitanga;

Me te mahara hoki kei roto i ngā whakaaetanga hokohoko herekore a Aotearoa tētahi aho 'whakawātea i Te Tiriti o Waitangi', e kī ana:

menā kāore aua āhukatanga e whakamahia hei take taurangi noa, whakahāwea rānei i ngā tangata o tētahi Rōpū, e matahuna ana rānei hei herenga i runga i ngā mahi tauhokohoko rawa, ratonga me te haumitanga, e kore tētahi mea i roto i tēnei Whakaaetanga e aukati i te whāinga a Aotearoa i ngā āhukatanga e whakaaro ana ia e tika ana kia mahia, e pai ake ai te manaaki i te Māori i runga anō i ngā take kei roto i tēnei Whakaaetanga, tae atu ki te whakatutuki i āna takohanga i raro i Te Tiriti o Waitangi.

E whakaae ana ngā Rōpū, ko te whakamāramatanga o Te Tiriti o Waitangi, tae atu ki te āhua o ngā motika me ngā takohanga ka ara ake i roto, e kore e noho i raro i ngā wāhanga whakatau take o tēnei Whakaaetanga. I tua atu i tērā ka pā te upoko Whakatau Tohenga ki tēnei Atikara. Ka tonoa pea te whakatūtanga o tētahi pae whiriwhiri i raro i te Atikara e kīia nei ko te 'Whakatūtanga o tētahi Pae Whiriwhiri' i roto i te upoko Whakatau Tohenga e te Rōpū tuku amuamu, ki te whakatau ake mēnā he hārakiraki tētahi āhukatanga (i kōrerotia i te kōwae o runga) ki ōna motika i raro i tēnei Whakaaetanga.

Kia mōhio ake ko te hira o te whakarite kia whai whakaarotia ngā tohutohu mātanga ture e pā ana ki Te Tiriti i te wā e wawao ana i tētahi take ISDS e pā ana ki te whakamahi i te whakawāteatanga o Te Tiriti o Waitangi;

Ka ū ki te whai i ngā mahi ka tatū ake ina tūpono ake tētahi kēhi Whakatau Tohenga Whenua-Haumi (ISDS) e whirinakitia ai pea te whakawāteatanga o Te Tiriti o Waitangi:

Te Kopounga o tētahi Pūkenga

1. Ina tūpono ake he kēhi ISDS e whirinakitia ai te whakawāteatanga o Te Tiriti o Waitangi, ka whāia e te Kāwanatanga te huarahi tika ki te kopou ake i tētahi Pūkenga, e matatau ana ki Te Tiriti me ngā tikanga Māori. Ko te mahi a taua Pūkenga, he kawē mai i te tirohanga ao Māori matatau, motuhake hoki ki te rōpū ā-ture a te Kāwanatanga, hei wawao i te kēhi. I roto i ngā kēhi tuatini, ka whai whakaarotia te tuku tautoko ki te Pūkenga ina hiahiaia (pēnei i te kopou i tētahi atu Pūkenga tuarua).

¹ This translation of the Protocol was completed by the Department of Internal Affairs, following the development of the English text through an engagement and consultation process.

Te whiriwhiri i te Pūkenga

2. Ka wawe te whiriwhiri i te Pūkenga i roto i ngā whakaritenga ISDS, kia mātua whakarite i te whakaurunga o te Pūkenga ki te wāhanga whakawhiti kōrero (ki ngā kaihaumi) o ngā whakaritenga, me ngā kōrero i roto i te rōpū ā-ture Kāwanatanga mēnā e tika ana ki te whakaara ake i te whakawāteatanga o Te Tiriti o Waitangi, i runga anō i ngā meka o te kēhi me ētahi atu take hāngai.
3. Ka whakamanatia te kopoutanga e te Kāwanatanga o Aotearoa i runga anō i ngā tūtohu wawe mai i ngā hinonga Māori e whakawhiti kōrero nei a MFAT mō ngā take tauhokohoko, otirā i te wā o te tānga o tēnei Tikanga, ko Te Taumata,² Ngā Toki Whakarururanga,³ te National Iwi Chairs Forum, me Me Uru Kahikatea.
4. Hei te mutunga iho, ka noho haepapa te Kāwanatanga o Aotearoa ki te kopou i te Pūkenga ki te rōpū ā-ture Kāwanatanga, ā, ka utu hoki i te Pūkenga.

Ngā tohu o te Pūkenga

5. Ko te Pūkenga ka kopoua ake, ka matatau ki Te Tiriti me ngā tikanga o te ao Māori.
6. I te wā ka rapu i te Pūkenga, ka whakapeto ngoi ki te whiriwhiri i te tangata matatau ki te ture tūmatanui, te ture ā-ao me te ture tauhokohoko, haumitanga hoki.
7. Ko te painga ake, mēnā he rōia te Pūkenga ka tohua, otirā e mau ana he tiwhikete mahi rōia. I te mea ka tohua te Pūkenga hei mema o te rōpū ā-ture Kāwanatanga, ka mana ētahi takohanga ngaio (pēnei i te matatapu) ki te Kāwanatanga.
8. I te wā ka tohu ake ngā āhuetanga, ka herea pea te Pūkenga kua kopoua ki te whiwhi Whakawāteatanga Haumarua Kāwanatanga o Aotearoa.

Te mahi a te Pūkenga

9. Ki te wawe te kopou i te tangata, ka tonoa te Pūkenga ki te whakauru ki te wāhanga whakawhiti kōrero o ngā whakaritenga ISDS.
10. Ka tonoa te Pūkenga kua kopoua, kia whai wāhi ki te ngā whai whakaarotanga i roto i te rōpū ā-ture Kāwanatanga mēnā e tika ana te kēhi e tohea ana, ki te whakaara i te whakawāteatanga o Te Tiriti o Waitangi.
11. Ka tonoa te Pūkenga kua kopoua kia whai wāhi ki ngā whai whakaarotanga o te rōpū ā-ture Kāwanatanga ki ētahi āhuetanga o te wawao i te kēhi me tana hātepe, tae atu ki te:
 - a) Te kōwhiringa o ngā kaitakawaenga me te momo mātauranga me mātua mōhio te kaitakawaenga i kopoua e Aotearoa; ā,
 - b) Mēnā ka whakaratoa he taunakitanga mātanga e pā ana ki ngā take Tiriti i roto i te kēhi.
12. Mēnā ka whakatauria e te rōpū ā-ture Kāwanatanga ka whakaarahia ake he whakawāteatanga o Te Tiriti o Waitangi, ka tonoa te Pūkenga i kopoua kia aro ki te whanaketanga o ngā tono ā-ture e pā ana ki te whakawāteatanga o Te Tiriti o Waitangi i ngā wāhanga mana whakatau ture me te whaimana, ā, mēnā e hiahia ana, i te wāhanga whaitake o te tohenga.
13. He motuhake te mahi a Pūkenga, otirā he mahi tāpiri ki te whakawhiti kōrero whānui me ngā tikanga whakatau take ka whakamahia ai e Aotearoa ki te whakahaere i ngā kēhi ISDS - kia mārāma ai ki ngā aronga a te Māori.

² Ko Te Taumata he rōpū whakawhiti kōrero Māori motuhake, e whakarite ana i te whakaatanga o ngā aronga Māori i roto i ngā kaupapahere tauhokohoko.

³ Ko Ngā Toki Whakarururanga he hinonga Māori i whakatūria i raro i te Whakaatanga Takawaenga i waenga i Te Rōpū Tauhokohoko me te Ōhanga a Te Manatū Aorere i te Oketopa 2020. I te wā i whāia tēnei Tikanga, e whakarite tonu ana tētahi Rōpū Mahi Taupua i a Ngā Toki Whakarururanga.

Pūataata

14. Ka pūataata te mahi a te Kāwanatanga o Aotearoa ki te motu whānui ki te taumata ka taea i te roanga o tētahi kēhi, māna, ka aukatia tēnei e ngā ture me ngā āhuratanga e whakahaere ana i te tohenga. Ka whakawātea a Aotearoa i ēnei mōhiohio ki te iwi tūmatanui, māna, he take anō e aukati ana i tēnei:
 - a) te āhuratanga kua tīmata kē ngā whakaritenga ISDS;
 - b) te ingoa o te kaihaumi;
 - c) te rāngai ōhanga me te tikanga e uru ana ki te tohenga;
 - d) ngā tuhinga e pā ana ki ngā whakaritenga tae atu ki ngā tauākī tono me te wawaonga, ngā tono ā-tuhi, ngā tuhinga o te whakawākanga, tae atu ki ngā whakahau, ngā whakatau me te whiwhinga a te taraipiunara takawaenga;
 - e) te tapeke e rapua ana e te kaihaumi; ā,
 - f) te tukanga mō te tuku i ngā tuhinga amicus curiae, i te wā ka whakarato te tikanga tohenga mō tēnei.
15. I ētahi wā, ka whai take pea a Aotearoa ki te pupuri tonu i ngā mōhiohio. Ki te pērā, ka kōrerotia te take, ā, ka pūataata tonu te mahi a te Kāwanatanga o Aotearoa ki te taumata ka taea me ngā mōhiohio tūmatanui.
16. Ki te whakatau te rōpū ā-ture Kāwanatanga kia kua e whakaarahia te whakawāteatanga o Te Tiriti o Waitangi, me whakapāho taua whakatau.
17. I te wā kāore e āheitia mataahotia te pūataatanga e ngā ture whakahaere i tētahi tohenga, ka tono te Kāwanatanga o Aotearoa kia whakaae te kaihaumi nāna te tohe, ki te pūataata a Aotearoa i runga anō i ngā take i whakaarahia i te kōwae 14.
18. Ina whakaaetia ana ngā ture me ngā āhuratanga e whakahaere ana i te tohenga, ka whakarato te Kāwanatanga o Aotearoa i ngā whakahoutanga whai pānga o te ahunga me ngā mōhiohio o ngā take e pā ana ki ngā aronga Māori ki ngā hinonga i kōrerotia i te kōwae 3.
19. I te wā e taea ana, ka whakawātea te Kāwanatanga o Aotearoa i ngā mōhiohio e pā ana ki te putanga o te tohenga.

