

India Trade Deal - UNDRIP inclusion

From: Todd McClay (MIN) <T.McClay@ministers.govt.nz>

Date: On Thursday, 21 May 2026 at 11:07

Subject: RE: TM010215: India Trade Deal - UNDRIP inclusion

To: yeovil94 <yeovil94@proton.me>

Dear Mr Major,

Thank you for your letter regarding the recently signed New Zealand – India Free Trade Agreement (FTA). The FTA is a once-in-a-generation agreement with the world's fastest- growing major economy with a market of 1.4 billion people. The FTA will deliver preferential access for 95% of New Zealand's current exports to India - 82% will be tariff free once fully implemented, plus sharp tariff reductions on a further 13%.

The FTA references several international instruments including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which was first included in the United Kingdom and European Union FTAs.

I wish to confirm that the inclusion of a reference to UNDRIP in the India FTA does not impose any legal obligations on New Zealand.

Nevertheless, I asked my officials to review the references to UNDRIP in a number of chapters in New Zealand's recent trade agreements including the NZ-India FTA and in all cases, any references to UNDRIP do not impose and are not intended to impose any obligations on New Zealand law or government policy. I can further confirm that it does not change the Government's publicly stated qualifications on the text of UNDRIP or indicate a change in position on UNDRIP by New Zealand.

Following the review, I have directed that UNDRIP should not be included in future FTAs unless it might be necessary as part of the negotiations process. However, this

would be a decision for Ministers and would not change the fact that UNDRIP is not legally binding.

Thank you for writing.

Warm regards,

Hon Todd McClay

Minister for Trade and Investment

Date: On Thursday, 14 May 2026 at 09:09
Subject: India Trade Deal - UNDRIP inclusion

To the Right Honourable Prime Minister Christopher Luxon and Honourable Ministers of the Crown,

I write to draw to your attention what I consider to be the obvious misconceptions inherent within the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

My reference point for writing this letter is the recent article by Gary Judd KC entitled *“The Sting in the India Trade Deal”*, in which Mr Judd expresses concern that the inclusion of UNDRIP within the New Zealand–India Free Trade Agreement may contribute to incremental constitutional change within New Zealand through treaty endorsement, judicial interpretation, and evolving legal practice.

The concerns raised by Mr Judd are serious and deserving of open public discussion. Constitutional change within a democratic nation should occur transparently, with the informed consent of the people, and not through gradual implication, bureaucratic development, or indirect legal interpretation arising from international instruments.

Modern-day New Zealand is now a blended nation formed over many generations — a small and peaceful nation among the nations of the world. There is no place in modern New Zealand where equal opportunity does not exist beyond the ordinary realities of regional economic circumstance. This is evidenced by our thorough and appropriate human rights laws which protect the rights of all individuals equally under the law.

Surely the reason for New Zealand’s peacefulness is more than obvious. We are a people who speak a language of inclusion, who share common concerns, and who celebrate common interests. Life in New Zealand is relatively simple. For generations, people have been free to

form union with whom they choose, resulting in generations of New Zealanders of mixed cultural heritage, celebrated in different ways throughout our society.

What UNDRIP appears to do is deny the people of modern New Zealand their true shared history. It denies people the right to celebrate the decisions of their forefathers to unite with other New Zealanders and to form families, communities, friendships, agreements, businesses, and shared lives together.

In that sense of denial, this United Nations document appears to diminish those generations of our forefathers and the peaceful social fabric they created together. It may be said that the document casts suspicion upon every union, every conversation, every agreement, every friendship, every contract, and every act of love between people, by dividing humanity through exclusionary classification rather than recognising the reality of a united modern people.

New Zealand's strength has never been separation. It has been peaceful coexistence, equal citizenship, shared identity, and freedom under one law applying equally to all people.

Our democracy is clean in the sense that it provides freedom of opportunity for all people to participate equally within society and under the law.

Why would anyone seek to impose a United Nations declaration upon this remarkable nation of New Zealand when it is so plainly an unsuitable fit? It is akin to trying to force a small left shoe onto a larger right foot. The fit is unnatural, uncomfortable, and ultimately serves only to make the wearer lame.

Why make the natural clean water of New Zealand bitter and contaminated with the bile of failed nations that require a United Nations declaration on indigenous peoples' rights in order to hold themselves together?

With respect, this is not a good situation at all.

New Zealand has evolved naturally over generations into a peaceful, blended society built upon shared experience, equal opportunity, mutual respect, and the freedom of individuals to live together without imposed division. To introduce frameworks that elevate separation over unity risks damaging the very social harmony that has made New Zealand such a stable and peaceful country.

For these reasons, I respectfully submit that it is entirely unsuitable for New Zealand to include UNDRIP within the India Trade Deal.

Yours sincerely,

Andrew Major

