

## In Confidence

# EU-NZ Free Trade Agreement: Reform of Geographical Indications Law in New Zealand – Discussion Paper

### Your name and organisation

<b>Name</b>	Privacy of natural persons
<b>Organisation (if applicable)</b>	Unique Manuka Factor Honey Association (UMFHA)
<b>Contact details</b>	Privacy of natural persons

[Double click on check boxes, then select 'checked' if you wish to select any of the following.]

- The Privacy Act 2020 applies to submissions. Please check the box if you do not wish your name or other personal information to be included in any information about submissions that MBIE may publish.
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I do not want my submission placed on MBIE's website because There are legal challenges against protecting the term manuka honey with CTMs filed and we wish to maintain legal professional privilege.

### Please check if your submission contains confidential information:

- I would like my submission (or identified parts of my submission) to be kept confidential, and **have stated below** my reasons and grounds under the Official Information Act that I believe apply, for consideration by MBIE.

Confidential advice to Government

**Please check if you would prefer to give your response in person or would like to meet to discuss your written submission:**

I would like to give my submissions in person or would like to meet to discuss my written submission.

If so, please provide contact details so that we can organise to meet in person.

<b>Name</b>	Privacy of natural persons
<b>Organisation (if applicable)</b>	Unique Manuka Honey Association (UMFHA)
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**Please choose any of the following you are associated with:**

- Iwi / Hapū
- Māori organisation
- Māori business
- Other

Please give any additional information you feel is relevant:

UMF™ Honey Association is an incorporated society, its members represent over 70% of all exported retail packs of mānuka honey products from New Zealand, it has over 140 members. founded over 25 years ago, and initiated the project “Protection of the term Manuka Honey along with being the key funder of the project. It has the goal of maintaining the high food quality standards in NZ and ensuring that our cultural, gastronomic, and local heritage is preserved and certified as authentic both within NZ and across the world.

## Responses to questions

	Section	Question													
1	<i>Registration of geographical indications</i>	Are there products other than wines and spirits being produced in New Zealand that are labelled with a name that indicates the products have a characteristic that is essentially attributable to its geographical origin? Are any of these products being exported and, if so, to where, and what export revenues do these products generate for New Zealand producers?													
	<p>Examples of products that are exported globally include Manuka Honey, other lesser-known honey types derived from NZ native species Rewarewa honey, Pohutakawa honey. Kamahi honey etc.</p> <p>Are any of these products being exported and, if so, to where, and what export revenues do these products generate for New Zealand producers?</p> <p>Manuka Honey Export value:</p> <table border="1"> <thead> <tr> <th></th> <th>2022 MH Export Revenue NZD FOB</th> </tr> </thead> <tbody> <tr> <td>USA</td> <td>\$90,327,098.00</td> </tr> <tr> <td>China</td> <td>\$51,909,063.00</td> </tr> <tr> <td>UK</td> <td>\$39,899,301.00</td> </tr> <tr> <td>Germany</td> <td>\$32,655,620.00</td> </tr> <tr> <td>Japan</td> <td>\$32,535,373.00</td> </tr> <tr> <td>Saudi Arabia</td> <td>\$14,660,566.00</td> </tr> </tbody> </table> <p>We are a \$455 million export sector, largely due to the growth and investment into mānuka honey.</p>			2022 MH Export Revenue NZD FOB	USA	\$90,327,098.00	China	\$51,909,063.00	UK	\$39,899,301.00	Germany	\$32,655,620.00	Japan	\$32,535,373.00	Saudi Arabia
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2	<i>Registration of geographical indications</i>	Is the inability to register these names under the GIs Act causing any problems and, if so, what?													
	<p>Confidential advice to Government</p> 														
3	<i>Registration of geographical indications</i>	What would be the advantages (or disadvantages) of extending the current registration regime to include GIs for food and beverages other than wine and spirits?													
	<p>The current NZ GI regime of wines and spirits is a model which other primary food product can use to protect and advance their own unique products. All NZ primary products should have the same level of legal rights and protections available to them. Legislation should be brought in line with current international standards for the recognition and protection of product origins.</p>														

	Section	Question
4	<i>Location of enforcement provisions</i>	Do you agree with our preferred option (Option iii) of providing provisions for the enforcement of GIs within the GIs Act? If not, where should these provisions be and why?
	We agree providing provisions for the enforcement of GIs within the GIs Act, provided this does not limit the use of any other possible legislation to enforce a GI	
5	<i>Civil enforcement</i>	Which option do you prefer for the court(s) to hear and determine the infringement of a registered GI, and why?
	Enforcement of GIs is essential to protect the consumer and Industry and to achieve the goal of maintaining high food quality standards and ensuring that our cultural, gastronomic and local heritage is preserved and certified as authentic within NZ and across the world. All possible enforcement options need to be made available.	
6	<i>Civil enforcement</i>	Do you agree with our preferred option (Option iii) to limit persons who may initiate civil action for the enforcement of GIs to “interested persons”? If not, who do you think should be able to take legal action and why?
	No Comment at this stage	
7	<i>Civil enforcement</i>	What would be the advantages (or disadvantages) of providing the same remedies to address an infringement of GI as are provided under the Trade Marks Act for the infringement of a trade mark?
	No Comment at this stage	
8	<i>Civil enforcement</i>	What other remedies (other than those provided under the Trade Marks Act) should be adopted for addressing the infringement of a GI and why?
	No Comment at this stage	
9	<i>Border protection measures</i>	Do you agree on basing the border protection measures for GIs on the Trade Marks Act? If not, what other measures should be adopted instead?
	No Comment at this stage	
10	<i>Border protection measures</i>	If the border protection measures based on the Trade Marks Act were to be adopted for GIs, what changes (if any) should be made to those measures and why?
	No Comment at this stage	
11	<i>Border protection measures</i>	Do you agree with the preferred option of limiting persons who may lodge a notice with Customs to those persons who have an interest in the GI concerned? If not, who should be able to and why?



	Section	Question
		All individual rights for remedy must be maintained, limiting any options for an individual should not be considered
12	<i>Administrative enforcement</i>	What would be the advantages (or disadvantages) of providing the same investigative powers currently available to the Commerce Commission under the Fair Trading Act to the agency responsible for providing administrative enforcement of GIs? Are there any other investigative powers that should be provided instead?
		No Comment at this stage
13	<i>Administrative enforcement</i>	What remedies should the courts be able to grant arising from administrative enforcement of GIs and why?
		No Comment at this stage
14	<i>Other issues</i> Official GI logo	What would be the advantages (or disadvantages) for the GIs Act to provide for producers to use an official logo on their labels and packaging that verifies the GI has been registered?
		The disadvantage is, in the management of the logo and the interference with the existing brand equity of legitimate producers and future marketers with a single design option across labelled bottles and promotional material.  Instead of a logo there needs to be enforceable guidelines on the use of protected terms.
15	<i>Other issues</i> Enduring GIs	Are any of the enduring GIs (ie 'New Zealand', 'North Island' and 'South Island') being used by New Zealand spirits producers? If so, who is using them? Please provide examples of use.
		No Comment at this stage
16	<i>Other issues</i> Enduring GIs	If the enduring GIs are not being used for spirits, what would be the advantages (or disadvantages) of repealing their protection under the GIs Act?
		Our interests are in the honey industry, we cannot comment on repealing any protection around possible GIs for spirits.
17	<i>Other issues</i> Costs	How might the costs to administer the GIs Act be recovered and from whom?
		Costs should be covered by those that use the GI system, however the cost to operate the GI programme needs to be transparent and contestable.

	Section	Question
18	<i>Other issues</i>	Are there any other problems with the current GIs Act or proposed new GIs registration regime? What changes, if any, should be considered?
	No Comment at this stage	