Tracey Epps and Peter Mumford

The New Zealand/ Australia Single Economic Market
evolution and future directions

Abstract

New Zealand and Australia have a unique relationship which extends to regulatory cooperation, and, in the context of this article, cooperation underpinning the goal of a Single Economic Market (SEM). There has been a distinctly 'trans-Tasman' way of doing things, which includes an SEM mindset which frames opportunities to cooperate as 'why shouldn't we' rather than 'why should we' and cooperation modalities that assume trust and confidence in each other, while recognising the need for safeguards for those times when sovereign states differ. This article traces the history of SEM and then looks to the future. It identifies and analyses four possible pathways.

Keywords trans-Tasman Single Economic Market, regulatory cooperation, TTMRA, business law coordination, ANCERTA, trans-Tasman relations, Australia–New Zealand

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Successive New Zealand and Australian governments have committed to aligning trans-Tasman regulatory systems that affect business, initially as part of the 1983 Closer Economic Relationship (CER) package of measures and subsequently the 2009 Single Economic Market (SEM) initiative. The aspiration has been high, as reflected in agreement on 'the desirability of ensuring that a firm will only have to comply with one set of rules and will have certainty as to the application of those rules and the regulator (i.e., Australian or New Zealand) with which it needs to deal' (New Zealand Government & Australian Government, 2010).

Since 1983 this aspiration has been achieved in part and the regulatory alignment goal has had a pervasive, but perhaps not fully appreciated, impact on New Zealand's regulatory systems, and the ease with which regulated goods, services, people and investment move between New Zealand and Australia may largely be taken for granted. Despite this, the Single Economic Market remains a work in progress.

However, those expecting alignment objectives to be carried forward by formal institutions of the type seen in the European Union (EU) will be surprised. Rather, regulatory alignment for business activities in the trans-Tasman context are diffused amongst multiple commonwealth, state and New Zealand institutions rather than centralised, and a pragmatic approach has been taken to identifying areas for alignment. This approach has served New Zealand and Australia well in the past, but what is the future?

This article outlines the history of CER/SEM and describes the trans-Tasman regulatory alignment model with reference to the Trans-Tasman Mutual Recognition Arrangement (TTMRA) and business law. It then sets out the case for maintaining the model between New Zealand and Australia but extending it to other regions.

A trans-Tasman Single Economic Market *History*

Often referred to as CER, the starting point for the single economic market objective was the 1983 Australia and New Zealand Closer Economic Relations Trade Agreement (ANZCERTA). This sought to liberalise trade by addressing, among other things, the removal or reduction of tariffs, quantitative import restrictions and export subsidies. In 1988, agreement was reached to accelerate the 1983 commitments, and additional agreements were entered into.

In 2009, the two prime ministers agreed to a Single Economic Market framework, to 'give new intensity and a renewed focus to delivering the practical benefits and outcomes from the Single Economic Market'. A press release stated that the work would be 'guided by key principles designed to deliver more quickly and effectively the benefits of [a] seamless trans-Tasman economy to consumers and businesses in both countries' (Key, 2009).

> Mutual interests are defined broadly to include reducing regulatory costs for businesses operating in both markets, achieving economies of scale in regulatory design and implementation, and jointly responding to international risks and opportunities.

The prime ministers made further commitments in 2024 and 2025. In 2024, they committed to modernising the SEM 'by expanding the SEM to emerging sectors of the economy; taking active steps to ensure our economic resilience; and considering how to position the SEM within the economic evolution underway across the wider region' (Luxon, 2024). Then, in 2025, in the face of global economic uncertainty, the prime ministers committed to 'further advancing trans-Tasman integration and the Single Economic Market to enhance resilience, growth and productivity, harness new technologies and address new regulatory challenges'. They made reference to further aligning New Zealand and Australian regulatory systems and standards, removing remaining trade impediments and 'coordinating and sharing lessons on best practice approaches to bolster resilience' (New Zealand Government, 2025).

Scope

The scope of the trans-Tasman SEM includes most if not all areas of policy and law that have an impact on the mutual interests of New Zealand and Australian businesses. Mutual interests are defined broadly to include reducing regulatory costs for businesses operating in both markets, achieving economies of scale in regulatory design and implementation, and jointly responding to international risks and opportunities. The following illustrate the range of agreements that have been entered into:

- Memorandum of Understanding on Technical Barriers to Trade, 1988
- CER Services Protocol, 1988
- Protocol on the Harmonisation of Quarantine Administrative Procedures, 1988
- Agreement on Standards, Accreditation and Quality (ASAQ), 1990
- Joint Accreditation System of Australia and New Zealand (JASANZ), 1991
- Agreement to establish a joint food standards system, leading to the establishment of Food Standards Australia New Zealand (FSANZ) and the Australia New Zealand Food Standards Code, 1995
- Australia and New Zealand Government Procurement Agreement, 1997
- Trans-Tasman Mutual Recognition Arrangement (TTMRA) – covering goods and occupations – 1998
- Memorandum of Understanding on Business Law Coordination (initially signed in 2000 and amended in 2006 and 2010)[1]
- CER Investment Protocol, 2013.

These agreements demonstrate the scope of the SEM but do not fully illustrate the breadth and depth of both informal and formal cooperation between policy and regulatory agencies, and standards and conformity assessment bodies, in both countries, and the alignment of laws based on a shared view of 'best practice'. Nor do they cover collaboration between New Zealand and Australia in an international context. For example, New Zealand and Australia (along with Japan) led the establishment of the APEC Sub-committee on Standards and Conformance, and, as noted below, jointly negotiated a mutual recognition agreement on conformity assessment with the EU, although this agreement was reflected in a separate treaty.

Relevance of the trans-Tasman SEM

The Single Economic Market has never been just one thing. The starting point (what we refer to as a 'mindset') on both sides is that we are better off working together. The effect of this is three-fold.

1. The threshold for contemplating cooperation is quite low. Ministers and officials have the mindset of 'why shouldn't we' rather than 'why should we'.
2. Ministers and officials have taken a holistic approach to the benefits. It has never just been about reducing regulatory costs to market participants. The strategic benefit to each country has often been a factor, and for New Zealand at least there has been a recognition that small bureaucracies do not have the resources to do everything themselves and that cooperation can compensate for smallness. At a more subtle level, the SEM represents the fact that friends talk to each other, and in situations of adversity help each other out.
3. The two countries cooperate to strengthen themselves vis-à-vis third countries. For example, New Zealand and Australia persuaded the EU to negotiate jointly with them on a mutual recognition agreement on conformity assessment on the basis that we were a single market and had a shared accreditation body (JASANZ).

The many agreements that create formal commitments have been built on an informal alignment of regulatory systems which provided confidence that both governments (or multiple governments when the states and territories of Australia are involved) have broadly the same values, objectives and capabilities.

While the parties have a cooperation mindset, there has also been a strong recognition that New Zealand and Australia are sovereign countries with individual preferences and interests. This means that in agreements involving deep cooperation, such as the TTMRA and the joint Food Standards Code, there are many safeguards aimed at preserving sovereignty. These provide reassurance not only to governments but also stakeholders and the broader community. Safeguards include exemptions and exclusions – for example, to ensure agreements do not cover matters that are more appropriately addressed by national governments; decision-making criteria and hierarchies (certain decisions must be taken by ministers or heads of government); and opt-out provisions – for example, in relation to adopting specific standards.

New Zealand and Australia have achieved both breadth and depth of cooperation without a central bureaucracy, unlike the EU. This is because trans-Tasman cooperation has become an integral part of what government agencies do, not in addition to what they do.

New Zealanders and Australians generally view the SEM very positively, regarding it as a practical arrangement that delivers tangible benefits for both countries. Regulatory cooperation pursuant to the SEM has largely been uncontroversial with stakeholders and the broader community and has attracted cross-party support. It does not necessarily have a high profile but is just accepted as 'the way we do things'. Not every initiative succeeds, an example being the proposal to establish a joint therapeutics agency. However, the relationship is strong enough for parties to be able to agree to step back if the national interest calculation ends up not being in favour of deeper cooperation in a specific case.[2]

The integration is facilitated by close similarities – legal, cultural, and geographic proximity – and is seen as enhancing prosperity, choice and convenience for businesses and individuals. The relationship is largely pragmatic, focused on reducing barriers, facilitating trade, and providing a seamless experience for companies and citizens crossing the Tasman. We consider that this is an important point, as we can contrast the trans-Tasman approach with the European single market which is much more complex and frequently intertwined with debates over sovereignty, identity and political integration.

Trans-Tasman cooperation requires an investment in relationships at both ministerial and agency level. Regular contact between ministers and officials is important, not just to build trust but also to ensure that when opportunities or risks arise, the option of cooperation to address them is top of mind. Such contact also provides a forum in which to raise ideas for cooperation, knowing there will be a willingness to listen.

The SEM aspiration is dynamic and responds to changing circumstances. This can be seen in the language in the prime ministers' statements, from a 'seamless economy' in 2009 to 'positioning the SEM within the economic evolution underway across the wider region' in 2024 (Key, 2009; Luxon, 2024). It is also seen in how the prime ministers committed to 'how Single Economic Market approaches could deepen economic ties, support diversification and provide greater resilience across our region' in the 2025 statement (New Zealand Government, 2025).

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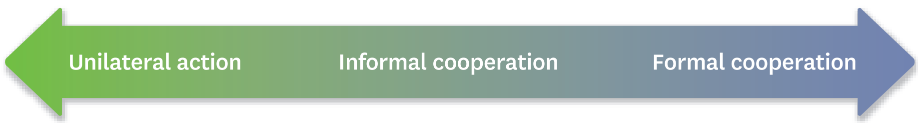
Figure 1: The cooperation spectrum



Taxonomy of regulatory cooperation

Regulatory cooperation instruments can usefully be conceived of as sitting on the cooperation spectrum shown in Figure 1, which has been developed based on an analysis of the trans-Tasman relationship.[3]

At one end, *unilateral action* involves a country taking action by itself. This might involve, for example, recognising regulatory outcomes from another country, adopting elements of another country's regulatory regime, or choosing to recognise certain international standards. A recent example of this is New Zealand's recognition of the US standards that apply to rocket launch operators and the US Federal Aviation Authority's licensing of Rocket Lab.

The TTMRA is an example of deep regulatory cooperation that is elsewhere seen only in the EU, and then only in relation to goods. Unlike in the EU, it does not depend on a central bureaucracy.

Moving along the spectrum, *informal cooperation* involves countries collaborating to improve how their regulatory regimes work together without having a formal agreement in place. This may also involve countries working together in regional or international forums. For example, Australia and New Zealand collaborated closely in the development of laboratory accreditation as the international system for assuring the competence of laboratories, which in turn provided the basis of formal agreements for the mutual recognition of test reports, a major trade facilitation measure.

There are degrees of informality in terms of what such cooperation might look like: for example, a meeting of officials would likely be seen as more informal than a meeting of ministers. However, our approach is to view informal cooperation as that which does not involve either a signed arrangement that is politically binding or a legally binding agreement. Taking this approach, even a meeting of ministers will be viewed as informal if no obligations result from it. There will in some cases be a point in time when informal cooperation morphs into something more formal. For example, five years of informal collaboration may eventually result in a written agreement.

At the right-hand end of the spectrum is *formal cooperation*. It is usually governed by legally binding treaty-level agreements (such as CER) or non-legally binding formal arrangements (such as TTMRA) and may be reflected in domestic law. As such, it is generally the most durable form of cooperation. Even non-legally binding arrangements are still considered by governments to be politically and morally binding, and as such, can be relied upon (although of course there will always be exceptions).

Regulatory cooperation instruments

Below we use the TTMRA to illustrate a single instrument that is cross-cutting and formal, of a type unique in the world and which demonstrates the level of SEM ambition. We then use business law to illustrate a broad regulatory domain where a range of instruments have been adopted, as this demonstrates the pragmatic approach that underpins much of the SEM regulatory cooperation.

Trans-Tasman Mutual Recognition Arrangement

The TTMRA was signed in 1996[4] as a means to address then existing regulatory impediments to trade between the two countries presented by measures such as product standards, conformity assessment requirements and occupational registration. Rather than starting from scratch, the TTMRA's approach was to extend the benefits of Australia's domestic inter-governmental Agreement Relating to Mutual Recognition (MRA) (Commonwealth of Australia et al., 1992) to the trans-Tasman context.

The TTMRA is an example of deep regulatory cooperation that is elsewhere seen only in the EU, and then only in relation to goods. Unlike in the EU, it does not depend on a central bureaucracy. While there are important safeguards, it is based on the principle that the governments can have 'confidence in each other's regulations and regulatory systems' and 'confidence in each other's decision-making processes' (Mumford, 2004).

The TTMRA and goods

Under the TTMRA, a good that may legally be sold in the jurisdiction of an Australian party may legally be sold in New Zealand and a good that may legally be sold in New Zealand may legally be sold in the jurisdiction of any Australian party (Recital G and clause 4.1.1). Goods need only comply with the standards or regulations applying in the jurisdiction in which they are produced or through which they are imported and do not have to comply with the other jurisdiction's additional requirements (see clause 4.1).

Goods only fall outside the scope of the scheme if there is an applicable exemption or exclusion. Exemptions are either temporary (up to 12 months on health, safety or environmental grounds) or permanent.[5] Exclusions cover categories of laws that the parties agreed during negotiations would sit outside the TTMRA, such as customs controls and tariffs, intellectual property and taxation.

The TTMRA and occupations

For occupations, a person registered to practice an occupation under a law of an Australian party is entitled to register to practise the 'equivalent' occupation under the law of New Zealand, and a person registered to practise an occupation under a law of New Zealand is entitled to register to practise the 'equivalent' occupation under the law of any Australian party, without the need to undergo further testing or examination (TTMRA, Recital G and clause 5.1.1). An 'equivalent' occupation is one where the activities authorised to be carried out under each registration are substantially the same (Part II, Interpretation). Occupations are covered if some form of legislation-based registration, certification, licensing, approval, admission or other form of authorisation is required in both jurisdictions in order to legally practise the occupation.

Under the TTMRA, differences in registration requirements (such as qualifications) can exist, because what matters is whether the activities authorised under each registration are substantially the same, or 'equivalent'. Regulators can impose conditions on individual registrations to achieve this equivalence: for example, pest controllers from cooler Australian states without termite issues may be restricted from using termite control chemicals in warmer states unless they first obtain the required training or experience (see Commonwealth of Australia, 2014, p. 12).

Occupations only fall outside the scheme's scope if there is an applicable exemption or exception. Currently there is one occupation-wide exemption, for medical practitioners.[6] There are also exemptions for laws that regulate the manner of carrying on an occupation, provided that those laws apply equally to all persons carrying on or seeking to carry on the occupation, and are not based on the attainment or possession of some qualification or experience relating to fitness to practise the occupation (TTMRA, clause 5.1.2). The kinds of laws exempted are those which require individuals to set up a principal office or develop a complaints process in each jurisdiction in which they operate.

The TTMRA's success

The TTMRA's success has been aided by shared history, language,[7] culture, common law traditions and strong political commitment to integration. Further, New Zealand and Australia have a similar approach to protecting the public from risk, and similar levels of risk tolerance. This has meant that recognising compliance with each other's laws raises relatively few concerns (see Gill, 2020a; Australian Productivity Commission, 2015, p. 35).

Relatedly, high levels of trust have made it possible for each country to accept outcomes of the other's regulatory regime as being equivalent. This is fundamental to the day-to-day operation of the arrangement, and also likely played a significant role in its initial negotiation.

Another relevant success factor, particularly on the occupations side, is that New Zealand was essentially able to 'piggyback on the MRA', a model that was already working well in the domestic Australian context. This allowed the arrangement to have broad coverage from the beginning, something that may not have been so easily achievable had negotiators had to begin from scratch.[8]

Even with the above factors, the exemptions, exceptions and exclusions were critical safeguards that ensured governments had policy space to protect their interests, and this eased the way to gaining political acceptance.

Business law

The general category of business law covers many areas of law, from competition to intellectual property.

Coordination between Australia and New Zealand has a long history; it has been both broad and deep, and a mix of informal and formal. A formal framework for

Table 1: Taxonomy of regulatory cooperation instruments

	Competition	Financial markets	External reporting standards	Insolvency	Takeovers	Insurance	Personal property securities
Aligned primary legislation							
Aligned rules and procedures for mergers and takeovers							
Aligned reporting standards							
Formal regulator-to-regulator dialogue							
Cross-appointments between regulators							
Formal agreements between regulators							
Enforcement cooperation							
Cooperation to influence international practice							
Streamlined procedures							
Mutual recognition of security offerings							

coordination was the memorandum of understanding on Harmonisation of Business Law 1988. This was renegotiated as the MOU on Coordination of Business Law in 2000 and amended in 2006 and 2010. A large work programme was agreed as part of the later MOUs, and this provides the basis of our taxonomy of policy instruments (Table 1), although some additional instruments have been added.

The primary objectives of business law coordination were to reduce transaction costs, lessen compliance costs and uncertainty, and increase competition. Other objectives, explicit or otherwise, included sharing and emulating best practice, influencing international practice and enhancing enforcement effectiveness.

Business law coordination framework

When the 1988 memorandum was renegotiated and renamed in 2000, three new principles were included 'to determine the suitability of candidates for coordination':

- the desirability of ensuring, for each particular situation, that a firm, ideally, will only have to comply with one set of rules, and have certainty as to the application of those rules in the other jurisdiction, and with which regulator (i.e., Australian or New Zealand);
- whether these situations should be regulated solely through domestic rules or whether a bilateral or multilateral solution would be more appropriate; and
- whether a good reason exists for the law in this area to be different between Australia and New Zealand.

Regulatory cooperation over the past 40 years has resulted in a trans-Tasman regulatory environment which, if not 'seamless' (an SEM aspiration), has relatively few significant barriers to goods, services or investment.

Regulatory cooperation instruments

Table 1 [on p. 37] shows our taxonomy of regulatory cooperation instruments in relation to business law. The shaded areas are where action has been taken. It excludes instruments and initiatives that were considered but not progressed, including a single competition regime and regulator and a single regime for stock exchanges (which would have been required if the Australian and New Zealand stock exchanges had decided to merge). It also excludes intellectual property, anti-money laundering and consumer law, all areas where there has been trans-Tasman cooperation. In this respect the table is illustrative rather than comprehensive.

Business law case studies

The following case studies illustrate aspects of business law coordination in more detail.

The MOU was further amended in 2006 and again in 2010, this time to include the Single Economic Market principles agreed between the prime ministers of New Zealand and Australia in 2009[9] and a revised work programme (New Zealand Government & Australian Government, 2010). The MOU is frequently referenced as the basis of trans-Tasman business law coordination activities.

Competition law coordination

New Zealand's Commerce Act 1986 is based on the Australian Trade Practices Act 1974. Notably, in both the Commerce Act and (now) Australia's Competition and Consumer Act 2010 there are provisions relating to the misuse of market power in trans-Tasman markets. There are cross-appointments to the New Zealand Commerce Commission and Australian Competition and Consumer Commission at associate commissioner level.

Formal cooperation agreements include:

- a 2016 Cooperation Protocol for Merger Review: this contains detailed provisions that the New Zealand Commerce Commission and Australian Competition and Consumer Commission will apply in relation to mergers involving trans-Tasman or global businesses that are subject to review in both New Zealand and Australia, and are intended to assist merger cooperation between the two.
- a 2013 co-operation arrangement between the commissions in relation to enhancement of cooperation and coordination.

In 2004 the Australian Productivity Commission wrote a report on trans-Tasman competition and consumer law and concluded that there had already been 'significant convergence of Australia's and New Zealand's competition and consumer protection regimes, particularly by international standards. Consequently, the regimes are not significantly impeding businesses operating in Australasian markets' (Australian Productivity Commission, 2004, p. xiv).

Mutual recognition of securities offerings

The trans-Tasman mutual recognition scheme allows an issuer in Australia or New Zealand to offer certain financial products in both countries using one disclosure document prepared under regulation in its home country. Issuers who wish to operate under the scheme are able to comply with minimal entry and ongoing requirements agreed to between the two countries and prescribed in each country's law.

The Australian Securities and Investments Commission (ASIC), the New Zealand Companies Office and the New Zealand Financial Markets Authority have established arrangements for cooperation and information sharing between the authorities in administering the mutual recognition scheme.

The aim of the scheme is to promote investment between Australia and New Zealand by removing unnecessary regulatory barriers to trans-Tasman financial product offerings and reducing the cost of capital-raising in both Australia and New Zealand. At the same time, the scheme maintains investor protection through appropriate disclosure and supervision of offerings.

In 2006, ASIC conducted research into the scheme's effects on industry. They concluded that 'the mutual recognition regime was viewed as a welcome policy development because: it had reduced firms' costs; and it had accelerated the regulatory approval process' (Australian Securities and Investments Commission, 2009).

Successes and challenges in the use of instruments

The peak period for business law coordination with Australia seems to have been from the mid-1980s to about 2010. This was the time when New Zealand was establishing new laws and using existing Australian laws as models (unilateral action and informal coordination), and both countries were actively looking for new opportunities to cooperate (formal coordination). While coordination continues, it seems to take the form of 'business as usual'.

While much of the coordination was undertaken within business law 'silos', such as competition law, a cross-cutting initiative was taken with the negotiation of the MOU on business law coordination in 2000, with an associated work programme and a co-chaired officials group reporting to New Zealand and Australian ministers.

One can speculate on why the impetus was not maintained beyond about the mid-2000s, but it is likely to be due to diminishing opportunities for significant gains relative to the costs of negotiating and implementing new arrangements. However, in the 25 years or so of active business law coordination some very significant initiatives were taken, and the business laws of both countries are quite similar as a result.

Discussion

We address regulatory cooperation as one of the foundation blocks of the Single Economic Market, the others being the removal of tariffs and restrictions on services and investment, and retention of the freedom to travel and work in each other's countries.

Regulatory cooperation over the past 40 years has resulted in a trans-Tasman regulatory environment which, if not 'seamless' (an SEM aspiration), has relatively few significant barriers to goods, services or investment. In the light of this success, it is an opportune time to consider the future of the SEM. We envisage that there are four plausible pathways, each of which is predicated on a different end point.

The first pathway would maintain the status quo, which in effect is 'ambitious incrementalism', identifying current or emerging opportunities and applying the SEM 'mindset' that we are better off working together and taking a 'why shouldn't we' rather than 'why should we' approach. This pathway largely eschews joint institutions and favours continued policy and regulatory agency coordination and unilateral recognition, albeit with some joint standards development, in both existing and new areas, such as emerging technologies, and formal cooperation arrangements between regulators.

The business law case study demonstrates the features of this pathway. The end point is a single economic market where trans-Tasman economic activity can take place largely unimpeded by regulatory costs, and both New Zealand and Australia benefit from regulatory coordination that achieves economies of scale and scope, mutual learning and more effective regulatory enforcement. In this scenario, there are few legally binding obligations beyond those that have already been agreed, and few trans-Tasman institutions.

The second pathway would explore step-change opportunities to deepen the SEM relationship. This pathway contemplates deepening integration of regulatory systems and joint institutions. The TTMRA case study provides an example of a highly integrated regulatory system. A step change could be the establishment of joint standards and regulatory institutions. We have two such institutions – Food Standards Australia New Zealand and the Trans-Tasman IP Attorneys Board – but did not proceed with two others that were considered, the joint therapeutics agency and a joint competition authority.[10] In this regard, the SEM differs from the EU single market. Both New Zealand and Australia and the EU have enacted the mutual recognition principle, but the EU has created a central bureaucracy to implement it. This has largely been avoided by New Zealand and Australia to date. If we followed this second pathway, the end point would be a single economic market based on integrated laws and institutions, meaning that in 40 years, trans-Tasman regulatory integration between New Zealand and Australia would look much more like the situation in the EU.

> There still needs to be a case for cooperation and this requires an assessment of trends and future scenarios in relation to trade, investment and the movement of people, and geopolitical factors.

The third pathway would involve deepening the SEM by broadening the range of instruments that New Zealand and Australia use beyond regulatory cooperation. This pathway is predicated on an understanding that 'single' markets require more than seamless regulation, and governments have more capabilities to achieve a single market than removing regulatory barriers. This pathway is foreshadowed in the 2025 Ministry of Business, Innovation and Employment/Ministry of Foreign Affairs and Trade long-term insights briefing on New Zealand's productivity in a changing world, which notes that 'The SEM is evolving to address modern challenges such as digital trade, climate resilience and regional economic security e.g. through work to reduce barriers to collaboration in science, technology and research across the Tasman' (Ministry of Business, Innovation and Employment & Ministry of Foreign Affairs and Trade, 2025). This pathway locates New Zealand and Australia at the 'cooperation' end of the 'cooperation vs competition' spectrum and implies a more integrated economic strategy.

The fourth pathway would extend the SEM to other regions or economies. This would involve taking the experience of the past 40 years in areas such as business law, occupational regulation and technical regulation and applying it in other regions, ideally in partnership with Australia. This experience tells us that there is no 'one size fits all' approach to regulatory cooperation, and that what is needed is a pragmatic, result-driven approach to the choice of instruments. In some cases, for example, unilateral alignment through acceptance of each other's standards will be the most cost-effective approach to reducing regulatory costs, whereas in other cases mutual recognition of each other's approvals may be achievable.

Importantly, the SEM model has always involved development of deep and trusted relationships between policy agencies and between regulators, and a shared commitment to identifying and pursuing opportunities. Ministers provide the mandate and a permissive and supportive environment, but officials have the responsibility for developing and delivering on work programmes. Goals, strategies and work programmes are important, but what the SEM has taught us is that an investment in relationships is of critical importance.

What are our views on these pathways? We assume that ambitious incrementalism will happen in any event, subject to a caveat that relationships cannot be taken for granted and the 'ambitious' aim of incrementalism requires an ongoing investment and what we describe as an 'SEM mindset'. This should not be taken for granted. We do not support the step-change pathway. While we note that more integrated laws and joint institutions may arguably make regulatory underpinnings of the SEM more durable, as integrated laws and joint institutions are hard to unwind, they would be costly and potentially controversial to establish, and we consider that the marginal gains over the status quo are not high enough to warrant the cost.

We have considered the argument that there is something about the trans-Tasman relationship which gives rise to trust and broadly aligned regulatory systems which cannot be replicated with other countries and regions.

We support broadening the range of instruments that New Zealand and Australia use to deepen the SEM. The case for an SEM has already been made in many policy documents and associated research over 40 years, and extending the range of instruments simply recognises that an SEM relies on more than the regulatory-focused instruments that have traditionally been used.

We also support extending the SEM to other regions or economies. We have considered the argument that there is something about the trans-Tasman relationship which gives rise to trust and broadly aligned regulatory systems which cannot be replicated with other countries and regions. While we agree that there are features of the relationship that have resulted from our shared history that cannot be replicated, the conditions for regulatory cooperation exist for any country that has modern regulatory systems, and that applies to many countries where we do not currently have the level of cooperation that we have with Australia.

There still needs to be a case for cooperation and this requires an assessment of trends and future scenarios in relation to trade, investment and the movement of people, and geopolitical factors. In this context, the long-term insights briefing considered the expansion of the SEM to new partners and identified the Association of South East Asian Nations (ASEAN) 'as a compelling candidate'. In 2025 the New Zealand and Singapore prime ministers agreed to 'explore novel ideas such as the concept of a single economic market' (Luxon & Wong, 2025). Based on our analysis of the history of the trans-Tasman SEM, we see no reason why Singapore as a country or ASEAN as a regional grouping should not be viable candidates for an SEM 'mindset' and pragmatic approach to regulatory cooperation.

Cooperation is likely to play out differently across the region, across sectors and across areas of law. Informal cooperation may be the norm for some time, which would involve working together to identify and adopt best practice, with the intent of and ultimately providing the basis for more formal cooperation. That being said, the pragmatic approach could still allow the parties to identify specific areas for formal cooperation. In this regard, Singapore is a special case as it has more similarities than differences to New Zealand in its approach to regulation. Hence, there currently will be more opportunities for formal cooperation with Singapore, with other ASEAN countries potentially participating over time.

Acknowledgment

Thanks to Julie Nind and Mark Steel for reviewing an early draft.

1 There was a predecessor agreement, the 1988 Memorandum of Understanding on the Harmonisation of Business Law. While it was acknowledged that this 'provided a starting point for dialogue on business law issues ... it became apparent that harmonisation would not always be the most efficient way of removing the

regulatory barriers between Australia and New Zealand'; hence the shift from 'harmonisation' to 'coordination' (Swain, 2001).

2 The proposed joint therapeutic agency initiative provides a useful case study of the challenges of regulatory cooperation: see Gill, 2018.

3 See MBIE's International Regulatory Cooperation Toolkit at https://irctoolkit.mbie.govt.nz/options; also see Gill, 2020b.

4 Between the leaders of the Commonwealth of Australia, the Australian states and territories and New Zealand.

5 Originally there was also a category known as 'special exemptions', where implementation was delayed pending cooperation to achieve greater integration, but this category is no longer being used and is unlikely to be used in future. Permanent exemptions originally agreed upon include those related to quarantine, endangered species, laws related to firearms, fireworks, indecent material, ozone protection, and agricultural and veterinary chemicals. In addition, new permanent exemptions have been added since 2010, including laws related to therapeutics, South Australia's legislation prohibiting the sale of drug paraphernalia, the Northern Territory's container deposit scheme, and Australia's tobacco packaging regulations. They also cover hazardous substances, industrial chemicals and dangerous goods; electromagnetic compatibility and radiocommunications standards; and road vehicles and gas appliances. (See Australian Productivity Commission, 2015, p. 16.)

6 Doctors with primary medical qualifications obtained in New Zealand are automatically granted general registration in Australia and vice versa under separate arrangements. It is only overseas-trained doctors whose registration is not mutually recognised (Commonwealth of Australia, 2014).

7 Although note that in New Zealand, in addition to English, te reo Māori is an official language (Māori Language Act 1987).

8 Interview notes on file with author, October 2023.

9 Specifically, 'This Memorandum recognises the Single Economic Market Outcomes Framework endorsed by Prime Ministers in their Joint Statement of Intent on 20 August 2009'.

10 A 2005 report by the Australian Productivity Commission on Australian and New Zealand competition and consumer protection regimes found that further integration of the two countries' regimes (including a single institutional framework) would have high implementation and ongoing costs and only moderate benefits (see Australian Productivity Commission, 2005, p. xxiv).

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