Mutual Recognition in the trans-Tasman Single Economic Market

Annmarie Elijah, ANU
John Leslie, VUW
The Aim

- to outline the institutional framework which underpins the trans-Tasman single market
- to explain how mutual recognition has been institutionalized between Australia and New Zealand
One Path to Single Market?
CER vs. EU

- Europe followed these steps
- Australia & NZ did not
Emerging TT SEM

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<th>Labour</th>
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Note that Figure 3 does not include ALL measures in trans-Tasman integration.

Sources: Lloyd, 1991; New Zealand Ministry of Foreign Affairs and Trade, 2003; Australian Department of Foreign Affairs and Trade, 2011.
The trans-Tasman Single Economic Market

- ‘Behind borders’ integration (1988 Review)
- Focus: problem solving, outcomes

**Diversity:**
- No single instrument (ANZCERTA, TTSEM, TTOIG…)
- Different coordinating mechanisms
Problem: Uncertainty

As integration progresses...

- ‘at’ vs. ‘behind’ borders issues
  - ‘at borders’ (e.g. tariffs) - transparent
  - ‘behind borders’ (e.g. labour qualifications) - protecting consumers or producers?
Managing uncertainty: institutions

Functions
- interpreting obligations
- monitoring compliance
- enforcing compliance/resolving disputes
- legislating new obligations

Who provides these services?
Choice about design?
Institutional design

Options:

- Actors: ‘inside’ or ‘outside’ member states?
- Policy competence: ‘general’ or ‘issue specific’?
Trans-Tasman institutions: domestic & decentralized

**Hybrid:**

1. A few joint (international) agencies
   - issue-specific
   - JASANZ, FSANZ, ANZTPA

2. ‘Pooled’ sovereignty arrangements
   - ministerial councils of Council of Australian Governments (COAG)
   - ‘inside’ member states
   - issue-specific (portfolio based)
TTMRA in practice

- Council of Australian Government (COAG) Ministerial Councils
  - Domestic & trans-Tasman institutions entwined
  - NZ membership increases over time

- TTMRA: Ministerial Councils have powers to resolve disputes over standards
TTMRA in practice

Shadow of vote

- Failure to settle disputes at lower levels may trigger vote in Ministerial Council
- Decisions on MR: two-thirds majority
- NZ representatives vote equally with Commonwealth, State and Territories (Article 6.3)
- Rules governing Councils revised to reflect trans-Tasman decision making.
Coordinating Mechanism: Mutual Recognition or Harmonisation?

Pros and cons

1. Mutual Recognition:
   - pro: low negotiating costs
   - con: disputes over ‘equivalence’

2. Harmonisation:
   - con: high negotiating costs
   - pro: monitoring compliance

Both create uncertainties, require institutional support
Occupations and Qualifications: two approaches

- **CER**
  - Focus on occupational registration
  - TMMRA uses mirror legislation in 10 jurisdictions
  - Use of institutions within the nation state to resolve disputes
  - Does not preclude harmonisation

- **The EU**
  - Focus on qualifications
  - Directive 2005/36/EC
  - Three tiered approach: harmonisation of certain qualifications, recognition of certain experience, remainder national authorities decide
  - Supranational institutions embedded in the process
Conclusions

- Trans-Tasman experience: more than one path to ‘single market’
  - institutions are necessary for deep integration, but
  - multiple institutional designs possible
  - Not ‘one size fits all’ across regions or issues

- Paper available on the IPF website